

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 5:18-1623 ODW (ADS) Date: February 4, 2019

Title: Karome Bynell Lewis v. Zavier Cano, Warden

Present: The Honorable Autumn D. Spaeth, United States Magistrate Judge

<u>Kristee Hopkins</u>	<u>None Reported</u>
Deputy Clerk	Court Reporter / Recorder

Attorney(s) Present for Petitioner(s): Attorney(s) Present for Respondent(s):
None Present None Present

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On July 26, 2018, Karome Bynell Lewis (“Petitioner”) constructively filed a Petition for Writ of Habeas Corpus by a Person in State Custody (“Petition”). [Dkt. No. 1]. On October 22, 2018, Respondent filed a Motion to Dismiss the Petition (“Motion to Dismiss”) and lodged supporting documents with the Court. [Dkt. Nos. 9, 10]. In the Motion to Dismiss, Respondent argues that the Petition is time-barred by the one-year statute of limitations under 28 U.S.C. § 2244(d). [Dkt. No. 9, pp. 9-15]. Pursuant to the Court’s August 21, 2018 Order Requiring Response to Petition, Petitioner was required to file an Opposition, if any, to the Motion to Dismiss within twenty (20) days of the Motion to Dismiss. [Dkt. No. 3, p. 2].

As of the date of this Order, Petitioner has not filed an Opposition or otherwise communicated with the Court about his case. However, in the interests of justice, Petitioner is **ORDERED TO SHOW CAUSE** why this action should not be dismissed and file his Opposition **by no later than February 19, 2019**. In the Opposition, Petitioner should tell the Court whether he believes statutory tolling and equitable tolling apply in this case. If Petitioner believes he is entitled to equitable tolling, he must provide facts that show the following: (1) that he has been pursuing his claims diligently and (2) that some extraordinary circumstance stood in his way and prevented timely filing. Holland v. Florida, 560 U.S. 631, 649 (2010).

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If Petitioner no longer wishes to pursue his claims, he may request a voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a). The Clerk of Court is directed to attach a Notice of Dismissal Form (CV-009) to this Order for Petitioner's convenience.

Petitioner is cautioned that failure to timely file a response will result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Initials of Clerk kh